THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14553 of 1997

Date: 07.03.2007

Between:

M. Kashisweswara Rao and another.

..... PETITIONERS

AND

A.P.S.E.B., rep. by its Member Secretary,
at Vidyutsoudha, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 14553 of 1997

Order:

The petitioners claim that they have been working as contract labour with the respondents-APSEB since 1993. It is their case that though they are working as such, the nature of work entrusted to them is permanent and perennial in nature, which is contrary to Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970. Hence, the petitioners contending that respondents-APSEB are indulging in exploitation of labour, have filed this writ petition seeking a direction to the respondents-APSEB to absorb/regularize their services as Helpers from the date of their initial appointment with all consequential benefits.

The respondents filed counter. The learned Standing Counsel for the respondents-APSEB reiterating the counter averments submitted that there is no relationship of employer and employee between the respondent-APSEB and the petitioners. In the course of execution of contract works of the respondent-APSEB, the petitioners were engaged by the voluntary organisations, and the nature of duties attending by the APSEB Helpers are entirely different and distinct with that of the works said to have been attended by the petitioners. Hence, they cannot seek absorption/regularization in the service of the respondent-APSEB. He further submitted that in view of the judgment of the apex Court in **Steel Authority of India Limited vs. National Water Front Workers**[1], the remedy of the petitioners is to approach the labour authorities under the Industrial Disputes Act, 1947, and no relief can be granted to them.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents-APSEB.

Whether the petitioners are employees of the contractor or of the respondents-APSEB and whether the nature of work performed by the

petitioners for the respondents through the contractor is permanent and perennial in nature are all disputed questions of fact, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot conveniently go into the same. In **Steel Authority of India Limited vs. National Water Front Workers** (1 supra), the apex Court held that the determination of the questions as to whether the contract of employment of labour is a genuine one or a mere ruse/camouflage to evade the provisions of beneficial labour legislation, require inquiry into disputed questions of facts, which cannot conveniently be made by the High Courts in exercise of their jurisdiction under Article 226 of the Constitution, and the appropriate authority to go into those issues was the Industrial Tribunal/Court whose determination will be amenable to judicial review. Since the present writ petition also raises similar disputed questions of fact, having regard to the judgment of the apex Court in **Steel Authority of India Limited vs. National Water Front Workers** (1 supra), the same is not maintainable, and the remedy of the petitioners is to approach the labour authorities under the Industrial Disputes Act, 1947 for the relief of absorption/regularization.

In the circumstances, following the aforesaid judgment and for the reasons mentioned therein, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioners are at liberty to approach the labour authorities under the Industrial Disputes Act, 1947 for the relief of absorption/regularization of their services with the respondents-APSEB.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 07.03.2007
Nsr/Sj

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[1] 2001 (6) ALD 1